



OFFICE OF THE ATTORNEY GENERAL OF TEXAS

AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable George H. Sheppard  
Comptroller of Public Accounts  
Austin, Texas

Dear Sir:

Opinion No. O-2914

Re: Whether delinquent tax collector-attorney may make agreements deferring execution and taking payment in installments.

In your letter of November 12, 1940, you request our opinion as to "whether or not after a claim for taxes has been reduced to judgment, the tax contractor (an attorney employed to collect delinquent taxes under Articles 7335 and 7335a, Vernon's Civil Statutes) is authorized to enter into an agreement with the defendant, permitting such defendant to pay the judgment in regular monthly installments; it being further agreed that order of sale will be withheld if payments are promptly made and same to be issued and the property sold in the event of default."

The only authority for commissioners' courts to employ attorneys to enforce or assist in the enforcement of the collection of delinquent State and county taxes is found in Articles 7335 and 7335a, Vernon's Civil Statutes. In Article 7336, Vernon's Civil Statutes, we find provisions fixing the time when taxes are payable. Article 7345b, Vernon's Civil Statutes, largely governs the procedure to be followed in tax foreclosure proceedings. We find nothing in any of such statutes which suggests that a delinquent tax attorney is clothed with the power to bind the State to agreements to so postpone collection. We do not believe that the power to "enforce or assist in

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the enforcement of the collection" of such delinquent taxes would carry with it any such power by necessary implication. And, the exercise thereof would in a sense disturb the contemplated operation of Articles 7336 and 7345b.

In our opinion the contracting attorney may not bind the State to any such agreements.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Glenn R. Lewis*  
Glenn R. Lewis  
Assistant

CRL:ew

APPROVED DEC 2, 1940

*Fernando Mann*  
ATTORNEY GENERAL OF TEXAS

*RWR*